

It doesn't trim some Medicare programs that maybe are not as effective as others and help the others be stronger, more effective. No, it just takes away from Medicare.

Those are the things that are in this act, but what is not in this act? The mine workers protection act championed by my colleague from West Virginia, Senator MANCHIN. The mine workers protection act isn't in here, but the provisions expire for thousands of mine workers in the near future. There are 12,500 coal miners who will lose their health insurance on December 31. Another 10,000 will lose their health coverage next year and on into the future if we don't restore this program. If this bill is about health care, why isn't the coal miners' provision in here? I think it should be, but it is not.

What else isn't in here? Senator WYDEN's provision to help children who are foster children gain access to programs to help them address mental health and addiction. That was in here yesterday. That would have been a positive talking point for this bill yesterday, but it was stripped out last night. This bill isn't ready, not just for prime time; it is not ready for consideration at all.

If we are going to cut real programs to fund other real programs such as the Moonshot and Alzheimer's research, strengthening NIH, then get it into this bill. Don't just put in the real cuts and then say there is some promise and an invitation to chase a rainbow down the road. Put it in the bill.

The things that are in here are powerful, deregulatory giveaways to Big Pharma and Big Tobacco, making the lives of our citizens worse, not better. That is why we should kill this bill.

Thank you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. Kaine. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

CHIEF PETTY OFFICER SCOTT C. DAYTON

Mr. Kaine. Mr. President, I rise today to honor Naval CPO Scott Dayton, a Virginian who became America's first combat casualty in Syria. Scott was a resident of Woodbridge, VA, here in Northern Virginia. He enlisted in the military in 1993, in the Navy, and had a distinguished 23-year career, finishing his time in one of the most dangerous billets in the military—as a bomb disposal expert.

Scott was working in Syria pursuant to Operation Inherent Resolve, and on Thanksgiving day he was killed. He was a 42-year-old Virginian based out of Virginia Beach, but he was killed working to dispose of bombs about 30

miles from Raqqa, Syria, which is one of the two main headquarters of ISIS.

Scott Dayton was a decorated sailor in his 23-year military career. He won virtually every award there was, including a Bronze Star—19 different awards and commendations. Because his death occurred over a holiday weekend, there wasn't a lot of attention paid to it, but it was something I really wanted to come to the floor today to talk about because he is the first combat death in Syria of an American servicemember in Operation Inherent Resolve.

I wish we were paying more attention to this, and that is what I want to devote the rest of my comments to.

#### USE OF MILITARY FORCE AUTHORIZATION

Mr. Kaine. We began Operation Inherent Resolve, which is a war against ISIS, on August 7, 2014. President Obama announced at the time that we were engaging in targeted airstrikes against ISIS because of their advance toward Erbil. There is a U.S. consulate in Erbil, and so that was part of the President's inherent powers to defend the Nation—to protect our consulate.

Within a very few weeks, we had completely protected American interests, and President Obama said now is the time to go on offense against ISIS. The President appeared before the American public in a televised speech the evening of September 10, 2014, and said that we had taken care of the imminent threat to the United States but now we needed to go into an offensive war to “degrade and ultimately destroy the Islamic state.” And that description of what the mission is has now been broadened, in the words of current Secretary of Defense Ash Carter, to focus on ISIS's lasting defeat.

Since the war against ISIS began in August 2014, more than 5,000 members of the U.S. military have served in Operation Inherent Resolve either in Iraq or Syria. Right now, just as an example, from my home State, there is a carrier, the USS *Eisenhower*—homeported in Norfolk—that is in the gulf now as part of Operation Inherent Resolve. The U.S. military has launched over 12,600 airstrikes. We are carrying out special forces operations. We are assisting the Iraqi military, Syrians fighting the Islamic State in Syria, as well as the Kurdish Peshmerga in the northern part of Iraq.

Because of the work of American troops and those they are working with, we have made major gains against ISIS in northern Iraq. The territory they control in northern Iraq has dramatically shrunk. We have made major gains in shrinking their territory in northern Syria, and that is to be credited to brave folks like CPO Scott Dayton. But the threat posed by the Islamic State continues, and increasingly, as their battle space shrinks in real estate, they undertake

efforts off that battleground to try to destabilize us around the world.

This fight against ISIL, which is a key—maybe the key—national security priority involving U.S. combat operations in Iraq and Syria, will likely continue for the long foreseeable future, even after the complete liberation of Mosul and Raqqa, which I am confident will occur. The war has cost \$10 billion—800 days of operations at an average of \$12.6 million a day.

I began by honoring Scott Dayton, but Scott Dayton is not the only military member who has lost his life in this war. Five have been killed in combat in total, and 28 American servicemembers have lost their lives supporting Operation Inherent Resolve. As we speak, there are more than 300 special forces now in Syria fighting a very complex battlefield where Turkish, Syrian, Russian, Iranian, Lebanese Hezbollah, and Kurdish forces are operating in close proximity, as evidenced by recent developments and the growing humanitarian catastrophe in Aleppo.

I continue to believe—and I will say this in a very personal way as a military dad—that the troops we have deployed overseas deserve to know Congress is behind this mission. As this war has expanded into 2-plus years—I don't know whether that would have been the original expectation—with more and more of our troops risking and losing their lives far from home, I am concerned—and again raise something I have raised often on this floor—that there is a tacit agreement to avoid debating this war in the one place where it ought to be debated—in the Halls of Congress.

The President maintains that he can conduct this war without a new authorization from Congress, relying upon an authorization that was passed on September 14, 2001. When the new Congress is sworn in, in early January—I think 80 percent of those Members of Congress were not here when the September 14, 2001, authorization was passed, so the 80 percent of us who were not here in 2001 have never had a meaningful debate or vote regarding this war against ISIL.

I have been very critical of this President. I am a supporter of the President. I am a friend of the President. I respect the Office of the President. But I have been very critical of this President for not vigorously attempting to get an authorization done. When the President spoke about the need to go on offense against ISIL in September of 2014, it took him 6 months from the start of hostilities to even deliver to Congress a proposed authorization. I actually think that is the way the system is supposed to work, that the President delivers the proposed authorization. But I have also been harshly critical of the article I branch because regardless of whether the President promptly delivers an authorization, under article I of the Constitution, it is Congress that has the obligation to initiate war.

As the current Presiding Officer knows because he is not only a Senator but a historian, the founding documents of this country are so unusual still today in making the initiation of war a legislative rather than Executive function. Madison and the other drafters of the Constitution knew that the history of war was a history of making it about the Executive—the King, the Monarch, the Sultan, the Emperor—but we decided that we would be different and that war would only be initiated by a vote of the people's elected legislative body and at that point would be conducted by only 1 commander-in-chief, not by 435. We have not had the debate. We have not had the vote.

This has been ironic because for 4 years I have been in a Congress that has been very quick to criticize the President for using Executive action. This is an Executive action that most clearly is in the legislative wheelhouse; yet it has been an Executive action that the body—and I am making this as a bipartisan and bicameral comment—has been very willing to allow the President to make.

I introduced a resolution for the first time to get Congress to debate and do this job in September of 2014, 2 days after the President spoke to the Nation about the need to take military action against ISIL. That authorization led to a Senate Foreign Relations Committee hearing and a vote in December of 2014 to authorize military action against ISIL, but that committee resolution never received any debate or vote on the Senate floor.

In 2015, working together with a Senate colleague from Arizona, Senator FLAKE, we decided we really needed to show our opposition to ISIL. Our belief that appropriate military force from the United States should be used against them was bipartisan, and so we introduced a bipartisan authorization of military force on June 8, 2015, in an attempt to move forward with some congressional debate on this most important issue. Aside from a few informal discussions in the Senate Foreign Relations Committee, there has never been a markup, never been a discussion, never been a committee vote or a floor vote.

So 2½ years of war against the Islamic State and 15 years now after the passage of the authorization in September of 2014, we see that authorization has been stretched way beyond what it was intended to do. The authorization of September 14, 2001, was a 60-word authorization giving the President the tools to go after the perpetrators of the attacks of 9/11. ISIL didn't exist on September 11, 2001; it was formed in 2003. President Obama recently announced that the authorization is now going to be expanded to allow use of military action against Al-Shabaab, the African terrorist group—a dangerous terrorist group, to be sure—but Al-Shabaab did not begin until 2007.

So an original authorization that was very specific by this body to allow action against the perpetrators of the 9/11 attacks is now being used all over the globe against organizations that didn't even exist when the 9/11 attacks occurred. Just to give an example, the 2001 authorization has been cited by Presidents Bush and Obama in at least 37 instances to justify sending Armed Forces to 14 nations. Pursuant to the authorization to go after the perpetrators of the 9/11 attacks, we have authorized military action in the Bush and Obama administrations in Libya, Turkey, Georgia, Syria, Iraq, Afghanistan, Yemen, Eritrea, Ethiopia, Djibouti, Somalia, Kenya, and the Philippines, as well as authorizing military activity in Cuba at Guantánamo to maintain detainees.

Just in the last week, the New York Times reported that President Obama is expanding the legal scope of the war against Al Qaeda by easing targeting and restrictions against Al-Shabaab, but again this was a group that didn't exist until 2007, 6 years after the 9/11 attacks.

Mr. President, I will conclude and say that having been very vocal about this issue for a number of years, it has been disappointing. Although we are all used to not getting our way in all kinds of ways, it has been disappointing to me that we have not been willing to take up this matter.

I do think a transition to a new administration and a transition to a new Congress that will be sworn in, in early January always gives you the opportunity to review the status of affairs and make a decision about what to do. I believe it is time for us to review the progress of the war against nonstate terrorist groups—Al Qaeda, ISIS, Al-Shabaab, Boko Haram, Al-Nusra. It is time for us to review U.S. military action against nonstate terrorist organizations. It is time for us to redraft the 2001 authorization that has been stretched far beyond its original intent. It is time for us to recognize that this is a continuing threat that is not going away anytime soon. But I guess what I will say is most important is that it is time for Congress to reassert its rightful place in this most important set of decisions. Of all the powers we would have as Congress, I can't think of any that are more important than the power to declare war. I view that as the most important, the most difficult, the most challenging, the power we should approach with the most sense of gravity. That is the most important thing we should do. It should never be an easy vote. It should always be a hard vote, but it should be a necessary vote. I think the inability or unwillingness of Congress to grapple with this sends a message that is unfortunate. It sends a message of lack of resolve to allies. It might even send a message of lack of resolve to our adversary.

But what I am most concerned about are people like CPO Scott Dayton, peo-

ple who are serving in a theater of war, who are risking their lives in a theater of war, who have been giving their lives in a theater of war and doing it without the knowledge that Congress supports the mission they are on.

As I conclude, Article I and Article II allocation of responsibilities are not just about what is constitutional. I think it reflects a value, and the value is this: We shouldn't order people into harm's way to risk their lives unless there is a political consensus that the mission is worth it. Anyone who volunteers for military service knows it is going to be difficult, and we will not be able to change that. But if we are going to order people into combat and order them to risk their lives—and even if they are not harmed, they may see things happen to colleagues of theirs that could affect them the rest of their lives. If we are going to order them to do that, then there should at least be a national political consensus that the mission is worth it. The way the Constitution sets that up is the President makes a proposal, but then Congress—the people's elected body—votes and says: Yes, the mission is worth it.

Now that we have had that vote, now that we have had that debate and we have educated the public about what is at stake, and now that we have said the mission is worth it, it is fair then to ask our 2 million Active-Duty Guard and Reserves—folks like Chief Petty Officer Scott Dayton, folks like my oldest son—to go and risk their lives on a mission like this. But if we are unwilling to have the debate and have the vote, it seems to me to be almost the height of public immorality to force people to risk and give their lives in support of a mission that we are unwilling to discuss.

Again, I offer these words in honor of a brave Virginian who lost his life on Thanksgiving Day, November 24. I hope that the growing number of people who are losing their lives in Operation Inherent Resolve may spur this body to take this responsibility with more gravity.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Ohio.

MR. BROWN. Mr. President I thank my colleague from Virginia, who is always speaking up for our men and women in uniform and for our Nation's veterans.

#### MINE WORKERS' HEALTH CARE AND PENSIONS AND THE 21ST CENTURY CURES BILL

MR. BROWN. Mr. President, right now our Nation's retired coal miners—and I know Senator KAINE and Senator WARREN care about this, too—are on the brink of losing the health care and retirement benefits that they have earned over a lifetime of hard work.

It is within the power of this Congress to stop this, to help the mine workers, and to do right by these hard-working Americans. Many of them are